IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

Defendants.

RODGER L. McAFEE,

Services Agency,

CV F 96-5720 AWI SMS

CV 05-0438 AWI DLB

ORDER VACATING HEARING DATE OF SEPTEMBER 26, 2005 AND TAKING MATTER UNDER SUBMISSION

Defendants in Case No. 05cv0438, United States of America, et al., have filed notice of motion and motion to dismiss the First Amended Complaint of plaintiff Roger L. McAfee pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. The matter was scheduled for oral argument to be held September 26, 2005. The Court has reviewed United States' motion to dismiss, McAfee's opposition, and United States' reply. The court has determined that the motion is suitable for decision without oral argument. Local Rule 78-230(h).

Therefore, IT IS HEREBY ORDERED that the previously set hearing date of September 26, 2005, is VACATED, and no party shall appear at that time. As of September 26, 2005, the Court will take the matter under submission, and will thereafter issue its decision.

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